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public, it is difficult to see how any court can hold that a corporation can purchase its own stock, unless such right be granted to it by statute or charter. The public have a right to demand that the corporation shall have the highest possible incentive and capacity to accomplish the purpose for which it was created that the law recognizing its existence will permit. When the stock is in the hands of the stockholder, it is to his interest to see that the business is properly prosecuted, but when the stock is owned by the corporation, no such incentive exists. Therefore, we believe that the rule that the corporation cannot purchase its own stock, unless that right is granted to it by charter or statute, is the only one that can be defended upon principle. If the state intends to grant such powers to a corporation, it should signify such intention by statute or charter. It cannot be contended that to purchase its own stock is a right necessarily incidental to corporate existence.

CRIMINAL LAW—CONTEMPT OF COURT—CONCERTED ACTION TO INFLUENCE TRIAL.— In a prosecution for murder, while the attorney for the defendant was making his final argument to the jury, one hundred persons, comprising one-fourth of the audience, arose as if by concert, and left the court room. The court below found that such action had no influence upon the jury. *Held*, that such a proceeding deprived the defendant of a trial by the law of the land. *State* v. *Wilcox* (1902), — N. Car. —, 42 S. E. Rep. 536.

In this case the one hundred persons did what with proper intent they would have a lawful right to do. The right to leave a court room under ordinary circumstances is undeniable. Under many conditions many persons may leave at once, but if many combine to influence the jury by leaving in a crowd, showing their feeling for the proceeding, then the concerted action based upon the wrong intent is unlawful. Under some circumstances a large number might leave the court room without any intent to influence the jury by their departure, yet if in fact they did influence the jury, the verdict should be set aside. In such a case a lawful act would render the trial improper. While in this case the crowd did leave during the argument, yet they might have had no intent to influence the jury. Much depends on the circumstances of their leaving.

DAMAGES—SALE OF REALTY—BREACH OF VENDOR'S CONTRACT.—The defendant contracted to sell trees to the plaintiff, which in a previous suit between the same parties, had been held to be realty. The defendant having received a better offer, refused to perform. In an action for damages for breach of the contract, *Held*, that the measure of damages is the contract price, and not the difference between the contract price and the market value at the time of the breach. By the contract price is meant the purchase money actually paid and interest thereon. *Stuart* v. *Pennis* (1902), — Va. —, 42 S. E. Rep. 667.

The court in this case used the term contract price, and yet gave it the meaning of the purchase price paid. There are several rules by which the measure of damages is ascertained. One adopted by some courts is the difference between the contract price and the market value at the time of the breach. *Pumpelly* v. *Phelps*, 40 N. Y. 64; *Margraf* v. *Muir*, 57 N. Y. 155; *Doherty* v. *Dolan*, 65 Me. 87, 20 Am. Rep. 677; *Leggett* v. *Mut. Life Ins. Co.*, 53 N. Y. 394; *Baldwin* v. *Munn*, 2 Wend. 399; *Brigham* v. *Evans*, 113 Mass. 538; *Muenchow* v. *Roberts*, 77 Wis. 520, 46 N. W. 802; *Irwin* v. *Askew*, 74 Ga. 581; *Dunshee* v. *Geoghegan*, 7 Utah, 113, 25 Pac. Rep. 731: MAYNE ON DAM., 208; SEDGWICK ON DAM., Sec. 1005, 1006. The weight of authority is with *Hopkins* v. *Lee*, 6 Wheat. (U. S.) 109, in allowing the difference between the contract price and the market value as the measure of damages,

or, if the contract price has been paid, then the full market value. See SEDGWICK ON DAM., 111, 1012, and cases there cited. According to a few cases, the rule of nominal damages and the consideration paid, is established. *Bain* v. *Fothergill*, L. R. 6 Ex. 59, L. R. 7 H. L. 158; *Buck* v. *Serrill*, 80 Pa. St. 413; *McCafferty* v. *Griswold*, 99 Pa. St. 270. According to the decisions of Virginia this case is correctly decided, but it is contrary to the weight of authority in the United States. Upon principle it is weak in that it allows the vendor to break his contract with impunity. The property having risen in value, he refuses to perform his contract, and this rule does not give any value to that contract in favor of the vendee. Should the property fall in value, the vendor can still hold the vendee. The effect of the rule is unjust,

ELECTIONS— MINORITY REPRESENTATION — CONSTITUTIONALITY OF STATUTE.—A statute establishing boards of excise commissioners for New Jersey cities provided that the boards should consist of five members, not more than three of whom should belong to the same political party; that at the election no voter should vote for more than three candidates, the five receiving the highest number of votes to be declared elected. In an action of quo quarranto against the commissioners elected under the act, *Held*, that the statute was unconstitutional. *State, ex. rel. Bowden* v. *Bedell* (1902), — N. J. L. —, 53 Atl. Rep. 198.

The provision of the New Jersey constitution held by the court to be contravened by the act is the one providing that qualified voters "shall be entitled to vote for all officers." This the court construed to guarantee to every voter the right to vote for every candidate, relying upon *McArdle* v. *Jersey City* (1901), 66 N. J. L. 590, 49 Atl. 1013, holding a like statute unconstitutional. The first of the few so-called "minority representation" cases arose in Ohio where a similar act was held to violate the provision that all qualified voters "shall be entitled to vote at all elections," from which the court implied the right of every voter to vote for every officer to be elected. *State* v. *Constantine* (1884), 42 Ohio St. 437, 51 Am. Rep. 833, 9 Am. & Eng. Corp. Cas. 33; contra, *Commonwealth* v. *Reeder* (1895), 171 Pa. St. 505, 33 At. Rep. 67, 33 L. R. A. 141, 37 Wkly. Notes Cas. 121. The Pennsylvania case, however, is much weakened by able dissenting opinions by Sterret, C. J., and Williams, J., and by the fact that the decision was based largely upon the historical reason that early statutes of a similar nature had never been attacked in that state. The New York courts have so far avoided the question by disposing of cases that have arisen, upon other grounds. *People* v. *Kenny* (1884), 96 N. Y. 294, 7 Am. & Eng. Corp. Cas. 677; *People* v. *Crissey* (1883), 91 N. Y. 616. See also *State* v. *Wrightson* (1893), 56 N. J. L. 126, 28 At. Rep. 56. And attempts to establish the system of cumulative voting have also failed. *Maynard* v. *Board of Canvassers* (1890), 84 Mich. 228, 47 N. W. 756, 11 L. R. A. 332; citing and approving *State* v. *Constantine*. But an Illinois statute giving the voter an option to cumulate his vote in certain local elections was upheld. *People* v. *Nelson* (1890), 133 Ill., 565, 27 N. E. 217. The entire question seems to be one for constitutional regulation. MCCRARY ON ELECTIONS (4th. ed.) sec. 212; FOSTER ON CONSTITUTION, vol. 1, 343. And the election of state representatives has been so regulated in Illinois.

The court in the principal case, although declining to pass thereon, express grave doubts as to the validity of the provision that not more than three members should belong to the same party, citing *Attorney General* v. *Board of Councilmen* (1885), 58 Mich. 213, 24 N. W. 887, 55 Am. Rep. 675, 9 Am. & Eng. Corp. Cas. 18; *Evansville* v. *State* (1888), 118 Ind. 426, 21 N. E. 267, 4 L. R. A. 93; *Mayor, etc., Baltimore* v. *State* (1859), 15 Md. 376, 74 Am. Dec. 572. These cases hardly support the doubts of the court. All